

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

UNITED STATES OF AMERICA,)
Plaintiff,)
v.)
MOHAMMAD SAAILI SHIBIN,)
a/k/a "Khalif Ahmed Shabin,")
a/k/a "Mohammad Ali,")
a/k/a "Ali Jama,")
Defendant.)
CRIMINAL CASE NO.
2:11cr33

TRANSCRIPT OF PROCEEDINGS
(Testimony of Robin Varghese)

Norfolk, Virginia
April 23, 2012

BEFORE: THE HONORABLE ROBERT G. DOUMAR,
United States District Judge, and a jury

APPEARANCES:

UNITED STATES ATTORNEY'S OFFICE
By: Joseph E. DePadilla, Esquire
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Counsel for the Defendant

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3 ON BEHALF OF THE GOVERNMENT: Direct Cross Red. Rec.

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R. Varghese - Direct

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3 MR. CASEY: The government at this time would call
4 Robin Varghese to the stand.

5 (The witness was administered the oath by the
6 clerk.)

7 ROBIN VARGHESE, called as a witness, having first
8 duly affirmed to tell the truth, testified as follows:

9 DIRECT EXAMINATION

10 BY MR. CASEY:

11 Q. Sir, what is your name, for the record?

12 A. Robin Varghese.

13 Q. Mr. Varghese, what is your -- where are you from?

14 A. I'm from India, Mumbai.

15 Q. What is your first language?

16 A. It's Hindi, but I can speak English.

17 Q. All right. For the benefit of the jury, I'm going to ask
18 if you could slide a little closer and move that microphone a
19 little closer to you. I'm going to ask if you can speak
20 slowly and keep your voice up so everybody can hear you.

21 Also, we have a court reporter who will be recording
22 what you say, and from time to time I may ask you to repeat
23 or spell something, okay?

24 A. Okay.

25 Q. Sir, how old are you?

R. Varghese - Direct

1 A. I'm 26.

2 Q. What do you do for a living? What is your job?

3 A. I'm a marine engineer.

4 Q. How long have you been a marine engineer?

5 A. For the past one year.

6 Q. And tell us about your educational background.

7 A. I finished my high school, and after doing my high school
8 I did four years of marine engineering. It specializes with
9 the engines on merchant vessels.

10 Q. Is that like a university education?

11 A. Yes, sir.

12 Q. Okay. What did you do after you graduated from the
13 marine engineering education?

14 A. I carried a paper which made me eligible to serve on
15 merchant vessels as a junior or a fifth engineer.

16 Q. Fifth engineer, is that -- and a junior engineer, is that
17 also training cadet?

18 A. We can call it as training marine engineer.

19 Q. Okay. I'm going to direct your attention to February
20 of 2010. At that point did you join the Marida Marguerite as
21 a crew member?

22 A. Yes, sir. I was selected by the OMCI, and I joined my
23 vessel, Marida Marguerite, on 21st February, 2010, from
24 Singapore.

25 Q. And OMCI is a crewing company based in India?

R. Varghese - Direct

1 A. Yes, India.

2 Q. All right. And from where did you join the Marida
3 Marguerite?

4 A. From Singapore.

5 Q. All right. And you were a fifth engineer. Is that
6 correct?

7 A. Yes, sir.

8 Q. Okay. What was the job of a junior engineer or a fifth
9 engineer?

10 A. Sir, my job basically is first to learn the systems, all
11 the systems and then basically the inside of the engine, and
12 to assist the first engineer with all the works that is
13 possible.

14 Q. Was this your first voyage?

15 A. Yes, this was my first voyage.

16 Q. Prior to May of 2010 did you meet a person by the name of
17 Oleg Dereglazov?

18 A. Yes. He was -- he is my chief engineer, and I met him
19 when he joined Marida Marguerite in April.

20 Q. Okay. Now, turning your attention to May 8 of 2010, do
21 you recall the Marida Marguerite being hijacked by Somali
22 pirates?

23 A. Yes, sir.

24 Q. Where were you on the ship when you first heard that the
25 Marida Marguerite was under attack by a skiff?

R. Varghese - Direct

1 A. Just -- I just finished my duty, and I was heading
2 towards my cabin when the able-bodied seaman on duty -- he
3 rushed down the stairs and informed me that a skiff had been
4 sighted. I went and changed my running suit, and as soon as
5 the general alarm was sounded we all were asked to accumulate
6 at the citadel; that is, the navigation bridge.

7 Q. Now, how long after you first heard the ship was under
8 attack until the pirates boarded the Marida Marguerite?

9 A. By 2:25 I told that, and we reached the bridge by 3:14,
10 and by 3:15 we were hijacked.

11 Q. And was the whole crew on the bridge when the pirates
12 actually entered the bridge?

13 A. Yes, sir. Only the third engineer and one of the
14 motormen -- they were on duty in the engine room. The rest
15 of all the crew -- that is, 20 crew members -- we were on the
16 bridge.

17 Q. Okay. And eventually did the third engineer and the
18 motorman down in the engine room -- did they later join the
19 crew up on the bridge?

20 A. Yes, sir, they were asked to come up.

21 Q. All right. And how many pirates were there at the time?

22 A. Six.

23 Q. Okay. And were they armed?

24 A. All of them.

25 Q. How well did they speak English?

R. Varghese - Direct

1 A. One of them could only speak a few sentences, one or two
2 sentences.

3 Q. Where did they direct the captain to go?

4 A. They asked the captain to go to Somalia.

5 Q. Did you see anyone strike the captain?

6 A. Yes, sir. The man who could speak the few English words
7 and sentences, he told the captain, and the captain removed
8 his spectacles -- he wore spectacles -- removed the
9 spectacles and slapped him across the cheek and put his
10 spectacles back on his face and told the captain to take the
11 ship to Somalia.

12 Q. Approximately how long did it take the ship from the time
13 it was hijacked until the time it reached its anchor point
14 off the coast of Somalia?

15 A. It was a Saturday afternoon, 3:15, and that was the time
16 we got hijacked, and we reached Somalia where we put the
17 anchor -- that was on a Monday morning.

18 Q. What was your life like on those first few days after the
19 Marida Marguerite had been hijacked?

20 A. Initially, we were all on the bridge. We were made to
21 sleep everything -- all the crew members were on the bridge.
22 I was put up on duty with the motorman during the daytime for
23 the initial days in the engine room, and I came up only at
24 night to sleep for the initial 10 or 15 days.

25 Q. Were you able to work in the engine room with Oleg

R. Varghese - Direct

1 Dereglasov?

2 A. Yes, I could, but Chief had put me up with the motorman
3 for the initial days.

4 Q. All right. Once you dropped anchor off the coast of
5 Somalia did anybody come aboard who spoke English?

6 A. The first person who came to speak to us in proper
7 English was a man named Hassan. And I don't know exactly,
8 but we came to know he was a negotiator.

9 Q. How long did he stay?

10 A. I saw him only for two days -- a day or two. That's it.

11 Q. All right. At some point after that did a second person
12 come aboard who spoke English?

13 A. It took a bit of a time, but a week, seven to ten days,
14 there was no one as a negotiator who could speak English, and
15 then a second man came.

16 Q. Who was that?

17 A. His name was Ali.

18 Q. That was Shibin Ali?

19 A. He came and introduced himself as Ali. Later on we, in
20 the coming days, heard him being termed as Shibin --
21 Shibin -- and that's how we knew it as Shibin Ali.

22 Q. And the persons who were calling him Shibin, Shibin Ali,
23 were those other pirates?

24 A. Yes, sir.

25 Q. I'd like you to look around the courtroom and see if you

R. Varghese - Direct

1 see Shibin Ali in court today.

2 A. Yes, sir.

3 Q. For the benefit of the Court and the record and the jury
4 could you please point to the defendant?

5 A. He's sitting over there (indicating).

6 THE COURT: Let the record reflect he's pointed to
7 the defendant.

8 BY MR. CASEY:

9 Q. When the defendant came aboard the ship did he make any
10 statements that you recall?

11 A. Yes, sir.

12 Q. What do you remember the defendant saying?

13 A. Just as we came in -- just as he came on board the bridge
14 he rounded up us all together and introduced himself; that
15 his name is Ali and he's come here as a negotiator and he's
16 basically from an NGO. He is a person who has come here to
17 safeguard us and make the way proper, give us a safe routine
18 passage back to our normal lives. He told us he would be
19 protecting us, taking care of us and the ship, and he won't
20 let anything happen to us.

21 Q. Did the defendant ever tell you what NGO he worked for?

22 A. No, he just said, "I work for a" -- "I have worked for an
23 NGO, and I'm here on that humanitarian basis."

24 Q. How often would you see the defendant after he came
25 aboard?

R. Varghese - Direct

1 A. Mostly after the duties when that was in the mess, in the
2 mess hall, when we would come to eat and he would be having
3 his lunch or dinner or whatever. That was the time that we
4 saw him.

5 Q. Did you also have an opportunity to see the portions and
6 quantities and types of foods that he ate?

7 A. Yes, sir.

8 Q. What did you see him eat?

9 A. Generally it was chicken and, basically, a whole lot of
10 it.

11 Q. You yourself, are you a vegetarian?

12 A. No, I'm a non-vegetarian.

13 Q. So you can eat chicken and meat and all that?

14 A. Yes, sir.

15 Q. Did you get to eat chicken and meat?

16 A. No.

17 Q. What did you get to eat?

18 A. Yogurt, rice, chicken, a type of pulse that the chief
19 cook could make up.

20 Q. How did your portions compare to what the defendant got
21 to eat?

22 A. That was the whole chicken.

23 Q. I'm sorry?

24 A. That was the whole chicken.

25 Q. Who got to eat the whole chicken?

R. Varghese - Direct

1 A. He got to eat.

2 Q. Okay.

3 A. So there was nothing from the dry storage, cold storage,
4 for us.

5 Q. During this time were you still covering your shifts in
6 the engine room?

7 A. Yes, sir.

8 Q. What were your duties specifically?

9 A. After that we were changed to eight hours a shift. I was
10 paired with my second engineer, and we kept rotating our
11 shifts during the day or the night or the afternoons.

12 Q. Looking after the --

13 A. All the machineries; that is, the generator, boiler, the
14 refrigeration, air conditioning, purifiers, all the things
15 which had -- which was mostly essential to keep the engine,
16 to make light, water and a comfortable situation for the
17 pirates.

18 Q. Now, for the jury's benefit, what's the worst thing that
19 can happen to a generator on a ship?

20 A. When the generator stops on a ship we term it as a
21 blackout.

22 Q. Did a blackout occur on your ship?

23 A. Yes, sir, twice, twice and thrice.

24 Q. Two or three times?

25 A. Yes, sir.

R. Varghese - Direct

1 Q. How long after the pirates hijacked the ship did the
2 first blackout occur?

3 A. During the first days when I was down with the motorman.
4 So to them I am an engineer, but I'm just a junior engineer.
5 I do not have the complete qualifications to take the
6 generator back on load if it goes in a blackout. And there
7 is a time when the whole ship -- there is no light on the
8 ship, and it takes time for the emergency generator to kick
9 in, so -- and that was a time in the initial days when this
10 happened.

11 Q. Okay. Was that prior to you dropping anchor at Garaad
12 or --

13 A. No, sir, after the anchor was put up.

14 Q. And was that before the defendant got aboard -- came
15 aboard?

16 A. No, after he got on board.

17 Q. All right. And did the defendant come and speak to you
18 about the blackout situation?

19 A. There was this one time when we had a blackout. Myself
20 and the motorman were on board but in the engine room. We
21 were on duty, and the first engineers came up trying to start
22 another generator. And behind the pirates and the negotiator
23 he came up. And he was very angry, and it was --

24 Q. Who was very angry?

25 A. The negotiator.

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1 Q. Are you talking about the defendant, Shabin Ali?

2 A. Yes, sir.

3 Q. Okay. Go ahead.

4 A. He -- it was in this way that the statements were: "This
5 is a human neglect, this is a dereliction of duty, and I need
6 a report." He asked straightaway to the chief engineer.

7 Q. Okay. He wanted an explanation as to why the blackout
8 occurred?

9 A. I can't explain properly.

10 Q. I don't need you to explain, just did the defendant want
11 an explanation?

12 A. Yes, he wanted an explanation. He wanted a report on was
13 it a human error or generator fault or whatever. He just
14 wanted a report on it.

15 Q. Okay. And what was his demeanor?

16 A. It was -- he was very angry. He just needed a report.

17 "I want a report. In five minutes I want it done."

18 Q. I'd like to direct your attention to July of 2010. In
19 July did you start having health problems?

20 A. Yes, sir. The middle of July, after the middle of July,
21 I was having a driving pain in my right testicle.

22 Q. And was that -- had you been tortured or anything done by
23 the pirates that caused that or --

24 A. Initially it was not, but it was just a normal pain,
25 driving pain, which was actually preventing me from walking

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1 or going down the stairs.

2 Q. So you just developed a medical problem while you were on
3 board unrelated to the hijacking or anything?

4 A. No, no.

5 Q. Correct?

6 A. Yes, sir.

7 Q. And how did this medical condition affect your ability to
8 work?

9 A. We got hijacked in May, so for May, June and July I could
10 work very properly, but after the middle of July until the
11 end of it it started becoming difficult for me even to get
12 down the stairs. And working in the engine room it's going
13 up and down the stairs lots of times. It's constant
14 movement. That's when I told my engineer, "I need a break
15 because I'm not able to do my duties, and it's very difficult
16 for me." So by the end of May the chief engineer told me to
17 take complete rest, and that's when I stopped going on duty.

18 Q. By the end of July, you mean?

19 A. Yes, sir, beginning of August.

20 Q. All right. And did you explain to Chief Engineer Oleg
21 that your medical condition related to your testicle?

22 A. Yes, I explained to him very properly that it is a
23 driving pain that's very painful, and the chief engineer
24 informed everyone. The captain, the negotiator came to hear
25 it, and the chief engineer said even the company was informed

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1 about this. Because he understood that this is a pain which
2 was a little -- it does not come on board all the time.

3 Q. So where did you rest to recover?

4 A. By that time we were in a cabin. I was taking rest in my
5 own cabin for the month of July and the month of August. I
6 did not go down for my duties entirely. The chief engineer
7 was good enough to give me that much of a break; whereas,
8 that was actually manpower very less.

9 Q. At some point did the defendant Shibir Ali ask you about
10 your medical condition?

11 A. Yes. Yes, sir.

12 Q. Tell us where you were and what he said.

13 A. That was after -- that was just about the ending of
14 August month coming, and I was in the hospital bed.

15 Q. Is that a room that --

16 A. That's a room in --

17 Q. -- where you have --

18 A. Medicines.

19 Q. -- medicines?

20 A. Yes, sir, medicines and all the basic things that we can
21 have for any kind of support when we are sick, medical
22 support.

23 So I was in the hospital bed, and there were many
24 people. At that time he came, and --

25 Q. Who is "he"?

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1 A. Ali, Ali.

2 Q. The defendant, Shabin Ali?

3 A. Yes, sir.

4 Q. Okay.

5 A. He came up, and just as we greet anyone or something it
6 was just as he entered the room he saw me, and the question
7 was, "How are your balls?"

8 Q. Okay. Was did you respond?

9 A. I said, "It's okay now."

10 Q. And this was at the end of August?

11 A. Yes, sir.

12 Q. Okay. I want to direct your attention to approximately a
13 week later, around September 6th. Do you remember that day?

14 A. Yes, sir.

15 Q. Why do you remember that day?

16 A. Actually, September 6th was the time -- that was the day
17 in the evening we finished our dinner by 6:00, and we knew
18 that on the bridge the chief engineer, captain, chief officer
19 and the second engineer, they were staying, and we started
20 hearing very horrible screams. It was like horrible screams
21 with pain. I heard the second engineer shouting. He was
22 going like, "Please stop, please stop." And then I heard the
23 chief officer and then the captain and finally the chief
24 engineer. This thing began at around 6:00 or 7:00, and it
25 went on until midnight, I have to say, because until 10:00 or

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1 11:00 we could hear the screams, and we shut down all the
2 lights because we were so scared what was going to happen.
3 We couldn't hear, but we were just hearing all the screams
4 from them. It was painful just listening to those screams.

5 Q. At some point on September 7th did you see the second
6 engineer?

7 A. Yes, sir, on --

8 Q. What is the second engineer's name?

9 A. APM Iashuddin Azamkham.

10 Q. And what was the second engineer's condition that you
11 observed?

12 A. It was early morning on 7 September, around 8:00, 9:00.
13 He came down from the bridge to our cabin, to our floor.
14 That's the floor that the chief engineer scream is. I saw
15 that his face was completely swollen up. It was red, it was
16 swollen, and I know he was wearing jeans, cut jeans, so I
17 could see his leg. His right leg had swollen up very badly.
18 It was so huge.

19 Q. So on September 7th did you go to your work duties that
20 day?

21 A. Yes, sir, because I was finding the pain slightly less.
22 And the motorman the day prior to this when all this was
23 going on, he was having some problems. He asked me -- he
24 actually requested me, "Can you please go for one day and do
25 your duty in my place?" So I accepted and I said, "I'll go

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1 on the 7th. That's no problem." Because I felt that the
2 pain had slightly subsided.

3 Q. Was this your first day back to work from recovery?

4 A. Yes, sir.

5 Q. What happened when you went to the engineering -- or the
6 engine room?

7 A. I went down to the engine room with my partner Avilash,
8 and that was 8:00, and within half an hour's time, 8:45, from
9 the boiler side of the entrance of the engine room myself and
10 the others we saw the investor, the accountant, one old man
11 with a beard, and another pirate coming down and after them
12 the chief engineer following them, and behind the chief
13 engineer another two pirates.

14 Q. Did you see the defendant at that point?

15 A. Yes, sir, he was also there with them.

16 Q. All right. What happened when these pirates came down
17 with the chief engineer?

18 A. Just as they came down the chief engineer saw us. We
19 were in the workshop. So he motioned at the third engineer,
20 and he asked him to come close to him. And the pirates --
21 they pushed him. We went -- from the control room floor we
22 went down to the water. And they even asked me to follow. I
23 followed the third engineer, and behind me another two
24 pirates. They all came down to the bottom floor, and we were
25 standing.

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1 Just as we all came together at one place one of the
2 initial pirates who hijacked the ship, he came close -- he's
3 a very tall fellow, 6'-4" in height. He came close, and he
4 asked, "Where is oil?" -- "Oil." He just asked, "Oil." And
5 him and me, we didn't understand what is going on. Before we
6 could even answer he gave him a slap across his face. And I
7 was standing behind him.

8 Both of us -- we got scared. We came behind, and
9 then the investor, he came first to the chief engineer --
10 "Oil." The chief engineer then couldn't speak. They wanted
11 to see the tanks. So this -- he made the chief engineer
12 explain to the third engineer that the manhole doors of the
13 tanks have to be opened up and show them. So one time when
14 we were opening in the midst of that after we opened the tank
15 they asked us to come up on top. I was helping the third
16 engineer. When he came back on top this investor -- he came
17 down to me and he asked me, "Oil." I said, "I don't know."
18 And in the middle of this this person -- these are people
19 they wanted to see the --

20 Q. Let me stop you there.

21 So you're down, one of the tanks is open, and what
22 pirates -- is the defendant there?

23 A. Yes, he's there.

24 Q. All right. And what's the defendant doing?

25 A. He wasn't doing anything.

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1 Q. Okay. And, so, what did the investor say to you?
2 A. He asked me, "Oil, where is oil?" And I told him, "I
3 don't know." And I got one statement which just agitated
4 him. It's like he got so mad, and then he was like -- they
5 were searching for the pipeline which would take -- they knew
6 that the pipes were calibrated for the fuel that is a
7 different calibration for the other pipes there. So they
8 were asking for the pipelines, and with that what they did
9 was the investor -- he asked me once again, "Where is oil,"
10 and I said, "I don't know."

11 First he went to the chief engineer. He immediately
12 took the -- another pirate, he did like this (indicating).
13 He pointed like this (indicating).

14 MR. CASEY: And, for the record, the witness is
15 pointing directly forward with just one finger up.

16 BY MR. CASEY:

17 Q. Go ahead.

18 A. And like one pirate is coming to pull the chief
19 engineer's jeans, and the chief engineer was just pleading,
20 "Why?" It was this way (indicating), and immediately he
21 pointed -- the investor, he pointed at me. And before I
22 could know it one man who was behind me he pulled down my
23 shorts and my underwear. And, I mean, this was just
24 shocking. I could not even hold my shorts. Because I didn't
25 understand what they are doing. One is asking me a question

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1 and another is pulling down my shorts. And this man in front
2 of me, his name was Sagi D.

3 Q. Sagi D?

4 A. Sagi D or Sagi DD. He came down, and then he point at
5 me. And this man had a cable tie. He brought the cable tie,
6 and he --

7 Q. Let me just stop you there.

8 MR. CASEY: Can I get 1-1 I, please.

9 BY MR. CASEY:

10 Q. Okay. Down to your lower left?

11 A. Yes, sir, this is a cable tie.

12 Q. All right. Continue, please.

13 A. He brought this cable tie, and my shorts and underwear
14 was down. He caught hold of my testicles, and he tried to
15 open the cable tie completely to tie it over both of the
16 testicles to pull them this way (indicating) but he could
17 not. And just for that he got ahold of my right testicle
18 and --

19 Q. Was this the same area where you had the medical
20 condition?

21 A. Yes, this was the same side of the -- I mean, this is the
22 same testicle which had been paining me since July. And what
23 he did was slowly he started -- he got ahold of it, and he
24 started tightening it. And, as God's grace or luck or
25 whatever -- I don't know -- the testicle just moved out from

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1 that place and the -- not completely but a little bit got
2 caught in that with the skin, and he started tightening the
3 scrotum.

4 Q. What was your reaction?

5 A. First I was actually shocked. It was like I'm naked, I'm
6 looking down, I have a cable tie tied on me, and I'm shocked
7 that I could not even shout. I could not say a word or
8 anything. It was paining, but I just froze. And this
9 fellow -- he is just tightening it. And when the pain just
10 began increasing like anything I started shouting. And one
11 man from the back who removed my shorts, who pulled my shorts
12 down, he took a broom and he started hitting me on the back.
13 And --

14 Q. What were you shouting?

15 A. I was like, "Please, stop, please, stop." And this is
16 going on, tightening, and they're actually -- they were
17 laughing. They were enjoying this.

18 Q. Who was laughing?

19 A. This man who was tying me, the investor, and this man who
20 was behind me. They were the three people who were right in
21 front of me. I could not see anyone beyond them. I could
22 only see these three people that were laughing. And -- and
23 just after that -- I don't know -- he again pointed out --
24 the same guy, Sagi D, he pulled out another cable tie, and as
25 soon as he brought out this cable tie he brought it out over

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1 my penis and he started tightening it, and that's when I
2 like -- I had to do something. I had to ask -- that's when I
3 saw Ali, and I shouted -- I called out his name, "Ali,"
4 and --

5 Q. Talking about the defendant, Shibin Ali?

6 A. Yes, sir.

7 Q. What did you call to him?

8 A. I called him "Ali." And I know I called him, because he
9 looked at me. And I called him, and he looked at me that
10 very instant, and I'm telling him, you know, my condition,
11 "Please tell them to stop. I have come down today. I don't
12 know where it is. I don't know where the oil is. Please
13 tell them to stop."

14 And I was literally begging, because the second
15 cable tie they put on my penis. The first one is initially
16 giving me so much pain, and the second one they are just
17 tightening and going on. It just bloated out like -- I would
18 have just died out over there. It was like I just couldn't
19 stand it. I had to grasp onto something, and I was standing
20 like that (indicating).

21 Q. When you called out to the defendant and pleaded to him
22 and begged him to tell them did he translate your message?

23 A. No, he just -- he looked away. He just looked away. I
24 was --

25 Q. Did the defendant try to intervene on your behalf?

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1 A. Nothing.

2 Q. Did he try to help you?

3 A. Nothing.

4 Q. What happened?

5 A. I knew then that he's a negotiator. He knows English.
6 He's down there. He was only one man -- I thought that -- to
7 ask them to stop. I called out, "Please ask them to stop"
8 because I know he's the man. He came to me, and he asked me,
9 "How are your balls?" That means he knows my condition. And
10 when I'm asking him to tell them to stop he didn't even look
11 at me. He didn't look at anything.

12 Q. How long did you have this cable tie on?

13 A. Fifteen minutes. And after that I don't know how long.
14 Half an hour.

15 Q. What happened then?

16 A. That guy kept on tightening, and after some time the
17 man -- I don't know -- with the beard, he came up to this
18 investor and something he said, and that's when the investor
19 asked this fellow to stop tightening it at all.

20 Q. So there was another pirate?

21 A. Yes, sir, one old fellow.

22 Q. Not the defendant?

23 A. No, no, no, no.

24 Q. Okay.

25 A. He came to the investor, and when the investor said --

R. Varghese - Direct

1 pointed out Sagi D he just moved out from that place.

2 Q. And what happened then?

3 A. That's when they pointed to the third engineer, the chief
4 engineer, to open this up. They tried. The third engineer
5 brought a hacksaw blade.

6 Q. A hacksaw blade?

7 A. Hacksaw blade. It's used in ships to cut all kinds of
8 pipes, fiber pipes and metal pipes, everything.

9 Q. How big is this thing?

10 A. It will be this much (indicating). It's a blade, and
11 it's in one action, and we can just keep on sawing it.

12 And he -- because it was so painful I just had to
13 get it out of there. I tried pulling, but pulling was not
14 the answer to it. They put the hacksaw over my penis, and
15 they were just one or two strikes, but it's skin over there.
16 It was cutting the skin, and I just said, "Stop." They
17 brought one pointed thing to see if they could pull it out.

18 Q. What is that, a knife?

19 A. No, it was a pointed thing.

20 Q. Okay.

21 A. After that the investor -- he helped the chief engineer.
22 And that's when the investor indicated for the pointed thing.
23 My third engineer went to the control room, and he got a
24 paper knife.

25 Q. This is a knife to cut paper?

R. Varghese - Direct

1 A. Cut paper, and it has a pointed tip on it. So the
2 investor, he knew how to open this cable tie. He asked my
3 third engineer. He got the paper knife, he brought it to the
4 cable tie. And it's kind of interlocking, so he just put it
5 on the interlock and loosened the cable tie. That was the
6 first cable tie that somewhat will loosen, and actually it
7 give me some kind of relief. Because the penis -- on the
8 head of it I should say the blood had completely clotted, it
9 was so bloated up.

10 And after that they went and opened the second cable
11 tie on the -- on my scrotum, the testicle, and just as they
12 were removing this they could remove both of it and still
13 they were searching for this oil. And that's when they
14 actually pointed out to the third engineer and the chief
15 engineer saying -- he didn't speak in words, but he indicated
16 that he would go like this to them, also (indicating). And
17 that's when they were searching the bottom platform, the
18 platform. They were searching for oil.

19 Q. After the cable ties were removed did the pirates
20 eventually leave?

21 A. No, they didn't. It took them time. They took their own
22 time to see all the engine room if there is a trace of oil
23 which has been hidden, according to them. And after that
24 they came to the control room. They checked everything
25 entirely. The banners -- they're opening it.

R. Varghese - Direct

- 1 Q. What happened to you? Where were you after that?
- 2 A. I could not even walk. I had to hold onto the railing,
3 because it became impossible for me to walk. They would not
4 even pick me up. I had to walk on my own.
- 5 Q. Did they take you up to the bridge?
- 6 A. No, they left me on duty there.
- 7 Q. And what happened then?
- 8 A. After these people left I was back on duty for that
9 evening, and up to the end of the evening I walked along the
10 engine room with the same pain. I actually could not even
11 pass urine that day for at least an hour or so -- not that
12 day, but an hour or so I could not pass urine. I was
13 actually scared that I may die from it.
- 14 Q. Did the defendant say anything to you?
- 15 A. Nothing. He said he was from an NGO and he would protect
16 us. At least I can say that he knew my condition. He knew
17 my condition.
- 18 Q. Let me ask you another question.

19 Based on your observations from the bridge, what was
20 the defendant's relationship with the investor, the one who
21 was pointing?

22 A. Just as an employee/employer kind of a thing. They would
23 eat, but it was just that.
- 24 Q. Did they chew khat together?
- 25 A. Yes, they did.

R. Varghese - Direct

1 Q. Did they sit together?

2 A. They did.

3 Q. Did you ever see the investor hit or abuse the defendant?

4 A. No.

5 Q. Let's talk about the end of the negotiations in December.

6 Who finished the negotiations on behalf of the
7 pirates? Who was the final negotiator?

8 A. Ali.

9 Q. Let's talk about those last days of your hostage
10 situation.

11 After the ransom was dropped and the money was
12 brought aboard the Marida Marguerite, did you ever see the
13 defendant, Shibin Ali, with the money or anything?

14 A. The day the money -- the next -- the day the money was
15 dropped after that, the next day in the morning when we saw
16 all the pirates carrying bundles of money, I saw him carry
17 one plastic, white plastic, under his arm.

18 Q. White plastic or -- clear plastic or --

19 A. A clear plastic kind of a thing under his armpit and
20 walking out.

21 Q. Did the defendant give any speech --

22 A. Yeah, he did.

23 Q. -- to the crew?

24 A. Yeah, he did.

25 Q. Can you tell us what the defendant said at that last

R. Varghese - Cross

1 speech that he gave to the crew?

2 A. It was before the money was dropped and the deal was
3 done. It was coming to us saying that, "This was not" --
4 "This was not to happen. This" -- "the pirates are nasty
5 people. I'm not involved in this. I helped you finish up
6 the deal. I tried to take care of you as much as possible,"
7 and, "I'm not at fault."

8 Q. Did he say something about forgiving and forgetting?

9 A. He said, "If you can, please forgive and forget for what
10 was done."

11 Q. What was your response to his speech?

12 A. "Why should I believe this?"

13 Q. During that whole time did you ever see the defendant
14 help the crew?

15 A. No.

16 MR. CASEY: No further questions, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. BROCCOLETTI:

19 Q. Sir, you don't speak Somalian, do you?

20 A. No, sir.

21 Q. So whatever conversations may have occurred between the
22 defendant and others who were speaking Somalian, you weren't
23 able to understand that?

24 A. No, sir.

25 Q. Likewise, any orders or instructions that were given to

R. Varghese - Cross

1 the defendant before he came down to talk to you, you weren't
2 privy to those, either, were you?

3 A. No, sir.

4 Q. The payment, as I understand it, when the ransom moneys
5 were dropped, was not done in front of you.

6 A. No.

7 Q. You were in the engine room at that time.

8 A. I was in the bridge.

9 Q. You were in the bridge. Who was with you?

10 A. Everyone was on the bridge.

11 Q. Everyone was on the bridge. Now, you also know about a
12 negotiator by the name of Looyan.

13 A. Looyan.

14 Q. And Looyan was on the ship for some time in September
15 through November, approximately.

16 A. He was there, but I don't know the exact dates or
17 anything.

18 Q. And you were able to see the interaction as well between
19 Shibin and Looyan, correct?

20 A. They were on board, but I never saw them speak or
21 anything.

22 Q. Well, you talked about the interaction you saw between
23 Shibin and the investor. You saw the --

24 A. They were eating together, sitting together.

25 Q. And you saw the interaction between Shibin and the other

R. Varghese - Cross

1 pirates.

2 A. Yes, sir.

3 Q. And that was different from the interaction you saw
4 between Looyan and the other pirates. Isn't that true?

5 A. That isn't true. It was between different individuals.

6 Q. The pirates would listen to Looyan, wouldn't they?

7 A. Yeah.

8 Q. But they wouldn't listen to Shibin?

9 A. They listened to him.

10 Q. They did listen to him? Didn't he get pushed on?

11 A. "Pushed on" means...

12 Q. Do you recall speaking to the German authorities in
13 January of 2011?

14 A. Yes, sir.

15 Q. And there was a video interview of you.

16 A. Yes, sir.

17 MR. BROCCOLETTI: This is on page 892.

18 BY MR. BROCCOLETTI:

19 Q. Did you tell the German authorities that, "Shibin Ali was
20 not respected or something. He was always pushed on like
21 this"?

22 A. That was Budea who did this, Budea.

23 Q. That was Budea?

24 A. Budea.

25 Q. Budea did what?

1 A. He never listened to him.

2 Q. But Looyan Budea would listen to?

3 A. Yes.

4 Q. Thank you.

5 MR. BROCCOLETTI: No further questions.

6 MR. CASEY: Thank you, sir. I have no further
7 questions.

8 THE COURT: You're instructed not to discuss your
9 testimony with anyone until this matter is complete, at which
10 time you're free to discuss it with anyone you like.

11 | Do you need this witness any further?

12 MR. DEPADILLA: No. We ask he be released.

13 THE COURT: Do you need him any further,
14 Mr. Broccoletti?

15 MR. BROCCOLETTI: No, Your Honor.

16 THE COURT: You may be released.

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CERTIFICATION

I certify that the foregoing is a correct transcript of an excerpt from the record of proceedings in the above-entitled matter.

s/s

Heidi L. Jeffreys

July 18, 2012

Date